

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION, ST. LOUIS**

IN RE:

Paul D. Benson

DEBTOR(S),

Hon. Judge Kathy A. Surratt-States

No. 15-41429

Chapter 13

**Hearing Date: 9/26/16
Hearing Time: 10:30AM
Hearing Location: Thomas F. Eagleton Courthouse
111 S. 10th Street, Courtroom 7 North
St. Louis, MO 63102**

Objection Deadline: 9/19/16

**NOTICE OF HEARING AND
MOTION FOR RELIEF FROM THE AUTOMATIC STAY AND CO-DEBTOR STAY
BY EMBRACE HOME LOANS, INC.**

*****ATTENTION! ANY RESPONSE TO THIS MOTION MUST BE FILED WITH THE COURT ON OR BEFORE 9/19/16. A COPY MUST BE SERVED UPON THE UNDERSIGNED. FAILURE TO FILE A TIMELY RESPONSE MAY RESULT IN THE COURT GRANTING THE RELIEF REQUESTED PRIOR TO THE HEARING DATE. *****

NOW COMES Embrace Home Loans, Inc. (hereinafter "Creditor"), by and through its attorneys, CODILIS, STAWIARSKI & MOODY, P.C. and moves this Honorable Court pursuant to 11 U.S.C. §362(d) and §1301(c) for an Order granting Creditor relief from the automatic stay and co-debtor stay and in support thereof respectfully represents as follows:

1. This Court has jurisdiction pursuant to 28 U.S.C. §1334 and venue is fixed in this Court pursuant to 28 U.S.C. §1409;
2. Debtors filed a petition under Chapter 13 of Title 11, United States Bankruptcy Code on 3/4/15;

3. Creditor is a secured Deed of Trust holder or servicer on the property commonly known as 4403 Neosho St, Saint Louis, MO 63116 by virtue of a properly perfected Deed of Trust recorded on 11/3/2010 at Book 11032010 Page 0038 of the Saint Louis City County records;

4. The approximate payoff amount is currently \$78,825.26:

Unpaid Principal Balance	\$74,247.17
Accrued Interest from 1/1/16 to 9/1/16	\$2,351.20
Escrow Advance	\$954.56
Recoverable Balance	\$475.00
Suspense Balance	-228.67
Bankruptcy Fees/Costs incurred in connection with this motion	\$1,026.00

5. Enforcement of this security interest has been stayed automatically by operation of 11 U.S.C. §362 of the Bankruptcy Code;

6. The Debtor(s) Chapter 13 plan herein provides for the cure of pre-petition arrearage by trustee disbursements, with post-petition payments being made directly to Creditor;

7. Creditor is entitled to relief from the automatic stay under 11 U.S.C. §362(d) for the following reasons:

- a) As of 08/31/2016, the Debtor(s) is/are past due for the 2/1/16 post-petition payment and all amounts coming due since that date;
- b) As of 08/31/2016, the total post-petition default through and including 8/1/16, is \$5,803.41. The default consists of 4 post-petition payments in the amount of \$676.46 each and 3 post-petition payments in the amount of \$722.79 each. The default also includes our post-petition attorney fees and costs in the amount of \$850.00 for this instant motion and includes \$176.00 for court filing cost. The post-petition payment history is attached to this motion as Exhibit A;
- c) In addition, monthly payment obligations will continue to accrue under the terms of the Note;

8. Said failure to make post-petition mortgage payments or provide for payments to creditor through the plan is sufficient grounds for relief from the automatic stay for cause pursuant to 11 U.S.C. Section 362(d) (1);

9. That the subject mortgage is co-signed by Carrie Benson and that to the extent that the co-debtor stay of 11 U.S.C. §1301 applies to real estate loans, it applies to Carrie Benson and grounds exist for relief therefrom under 11 U.S.C. §1301(c)(1) as the co-debtor received an ownership interest in the house and under 11 U.S.C. §1301(c)(3) if the automatic stay is modified therein;

10. The Court has authority to order that Rule 4001(a)(3) is not applicable to the order entered in granting this motion, and Creditor requests this Court so order;

11. That in the event the stay is modified, creditor requests this court find that Rule 3002.1 is not applicable with respect to creditor as the loan secured by the property described herein will not be paid pursuant to 11 U.S.C. 1322 (b)(5).

WHEREFORE Embrace Home Loans, Inc. prays this Court enter an Order pursuant to 11 U.S.C. §362(d) and §1301(c) modifying the automatic stay and co-debtor stay as to the property securing its interest, waiving the fourteen (14) day stay pursuant to Rule 4001(a)(3), providing that Rule 3002.1 is not applicable, approving its post-petition fees and costs incurred, and for such other and further relief as this Court may deem just and proper.

Dated September 2, 2016

Respectfully Submitted,

Codilis, Stawiarski & Moody, P.C.

BY: /S/ MARYANN KIER

CODILIS, STAWIARSKI & MOODY, P.C.
15W030 North Frontage Road, Suite 200
Burr Ridge, IL 60527
(630) 794-5200- Phone
(630)794-5277- Fax
CSM File No. 26-16-00156

Joseph J. Circelli #58421MO
Rachael A. Stokas #61282MO
Matthew M. Moses #62330MO
MaryAnn Kier #59899MO
Joe.circelli@mo.cslegal.com
Rachael.stokas@il.cslegal.com
Matt.moses@il.cslegal.com
Maryann.kier@mo.cslegal.com

NOTE: This law firm is a debt collector.

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION, ST. LOUIS**

IN RE:

Paul D. Benson

DEBTOR(S),

Hon. Judge Kathy A. Surratt-States

No. 15-41429

Chapter 13

CERTIFICATE OF SERVICE

The undersigned, an attorney, hereby certifies that I have served a copy of this Notice along with the attached Motion upon the parties listed below via electronic notice or first class U.S. mail in a properly addressed envelope, postage prepaid, from 7140 Monroe Street, Willowbrook, IL 60527 before the hour of 5:00 PM on September 2, 2016.

Paul D. Benson Debtor, 4403 Neosho St., Saint Louis, MO 63116
Carrie Benson, Co-Debtor, 4403 Neosho St., Saint Louis, MO 63116
Sean C. Paul, Attorney for Debtors, 8917 Gravois Road, 2nd Floor, St. Louis, MO 63123
John V. LaBarge Jr., Chapter 13 Trustee, P.O. Box 430908, St. Louis, MO 63143
U.S. Trustee, 111 S. 10th Street #6353 St. Louis, MO 63102

/s/ MaryAnn Kier #59899

Attorney for Creditor

CODILIS, STAWIARSKI & MOODY, P.C.
15W030 North Frontage Road, Suite 200
Burr Ridge, IL 60527
(630) 794-5200
CSM FILE NO. (26-16-00156)

NOTE: This law firm is a debt collector.